

HOUSE No. 982

The Commonwealth of Massachusetts

PRESENTED BY:

Ronald Mariano

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to confidentiality of examination reports of the division of banks .

PETITION OF:

NAME:

|DISTRICT/ADDRESS:

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CONFIDENTIALITY OF EXAMINATION REPORTS OF THE DIVISION OF BANKS .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 97 of chapter 140 of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the
3 following two paragraphs:—

4 A licensee shall, when directed by the commissioner, permit the commissioner or his
5 duly authorized representative to inspect its records and evidence of compliance with this chapter
6 or any rule and regulation issued thereunder and with any other law, rule and regulation
7 applicable to the conduct of its business. The commissioner shall preserve a full record of each
8 such examination of a licensee including a statement of its condition. All records of
9 investigations and reports of examinations by the commissioner, including workpapers,
10 information derived from such reports or responses to such reports, and any copies thereof in the
11 possession of any licensee under the supervision of the commissioner, shall be confidential and
12 privileged communications, shall not be subject to subpoena and shall not be a public record
13 under clause twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of
14 investigation and reports of examinations shall include records of investigation and reports of
15 examinations conducted by a financial regulatory agency of the federal government and any
16 other state, and of any foreign government which are considered confidential by such agency or
17 foreign government and which are in possession of the commissioner. In any proceeding before a
18 court, the court may issue a protective order to seal the record protecting the confidentiality of
19 any such record, and other than any such record on file with the court or filed in connection with

20 the court proceeding, and the court may exclude the public from any portion of a proceeding at
21 which any such record may be disclosed. Copies of such reports of examination shall be
22 furnished to a licensee for its use only and shall not be exhibited to any other person,
23 organization or agency without prior written approval by the commissioner. The commissioner
24 may, in his discretion, furnish to regulatory agencies of the federal government, of other states,
25 or of foreign countries, and any law enforcement agency, such information, reports, inspections
26 and statements relating to the licensees under his supervision.

27 The commissioner, or his examiners or such others of his assistants as he may designate,
28 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
29 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
30 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
31 required or obstructs the person making such examination in the performance of his duty, shall
32 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
33 than one year.

34 SECTION 2. Section 2 of chapter 167 of the General Laws, as so appearing, is hereby
35 amended by striking out the sixth paragraph and inserting in place thereof the following
36 paragraph:—

37 The commissioner shall preserve a full record of each such examination of a bank
38 including a statement of its condition. All records of investigations and reports of examinations
39 by the commissioner, including workpapers, information derived from such reports or responses
40 to such reports, and any copies thereof in the possession of any licensee under the supervision of
41 the commissioner, shall be confidential and privileged communications, shall not be subject to
42 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
43 the purpose of this paragraph, records of investigation and reports of examinations shall include
44 records of investigation and reports of examinations conducted by a financial regulatory agency
45 of the federal government and any other state, and of any foreign government which are
46 considered confidential by such agency or foreign government and which are in possession of the
47 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
48 record protecting the confidentiality of any such record, other than any such record on file with
49 the court or filed in connection with the court proceeding, and the court may exclude the public
50 from any portion of the proceeding at which any such record may be disclosed.

51 SECTION 3. Section 4 of Chapter 167F, as so appearing, is hereby amended by inserting
52 after the fourth paragraph the following two paragraphs:—

53 The commissioner shall examine any such person, to whom any such certificate to
54 engage in the business of selling, issuing or registering checks or money orders has been issued,
55 as he deems necessary and in a manner he deems appropriate. The commissioner shall preserve a
56 full record of each such examination of a check seller including a statement of its condition. All
57 records of investigations and reports of examinations by the commissioner, including
58 workpapers, information derived from such reports or responses to such reports, and any copies
59 thereof in the possession of any licensee under the supervision of the commissioner, shall be
60 confidential and privileged communications, shall not be subject to subpoena and shall not be a
61 public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
62 paragraph, records of investigation and reports of examinations shall include records of
63 investigation and reports of examinations conducted by a financial regulatory agency of the
64 federal government and any other state, and of any foreign government which are considered
65 confidential by such agency or foreign government and which are in possession of the
66 commissioner. In any proceeding before a court, the court may issue a protective order to seal
67 the record protecting the confidentiality of any such record, other than any such record on file
68 with the court or filed in connection with the court proceeding, and the court may exclude the
69 public from any portion of the proceeding at which any such record may be disclosed. Copies of
70 such reports of examination shall be furnished to a licensee for its use only and shall not be
71 exhibited to any other person, organization or agency without prior written approval by the
72 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
73 federal government, of other states, or of foreign countries, and any law enforcement agency,
74 such information, reports, inspections and statements relating to the licensees under his
75 supervision.

76 The commissioner, or his examiners or such others of his assistants as he may designate,
77 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
78 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
79 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
80 required or obstructs the person making such examination in the performance of his duty, shall

81 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
82 than one year.

83 SECTION 4. Section 10 of chapter 169, as so appearing, is hereby amended by inserting
84 after the second paragraph the following two paragraphs:—

85 The commissioner shall preserve a full record of each such examination of a licensee
86 including a statement of its condition. All records of investigations and reports of examinations
87 by the commissioner, including workpapers, information derived from such reports or responses
88 to such reports, and any copies thereof in the possession of any licensee under the supervision of
89 the commissioner, shall be confidential and privileged communications, shall not be subject to
90 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
91 For the purpose of this paragraph, records of investigation and reports of examinations shall
92 include records of investigation and reports of examinations conducted by a financial regulatory
93 agency of the federal government and any other state, and of any foreign government which are
94 considered confidential by such agency or foreign government and which are in possession of the
95 commissioner. In any proceeding before a court, the court may issue a protective order to seal
96 the record protecting the confidentiality in appropriate circumstances to protect the
97 confidentiality of any such record, other than any such record on file with the court or filed in
98 connection with the court proceeding, and the court may exclude the public from any portion of
99 the proceeding at which any such record may be disclosed. Copies of such reports of
100 examination shall be furnished to a licensee for its use only and shall not be exhibited to any
101 other person, organization or agency without prior written approval by the commissioner. The
102 commissioner may, in his discretion, furnish to regulatory agencies of the federal government, of
103 other states, or of foreign countries, and any law enforcement agency, such information, reports,
104 inspections and statements relating to the licensees under his supervision.

105 The commissioner, or his examiners or such others of his assistants as he may designate,
106 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
107 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
108 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
109 required or obstructs the person making such examination in the performance of his duty, shall
110 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
111 than one year.

112 SECTION 5. Section 10 of chapter 169A, as so appearing, is hereby amended by adding
113 the following two paragraphs:—

114 The commissioner shall preserve a full record of each such examination of a licensee
115 including a statement of its condition. All records of investigations and reports of examinations
116 by the commissioner, including workpapers, information derived from such reports or responses
117 to such reports, and any copies thereof in the possession of any licensee under the supervision of
118 the commissioner, shall be confidential and privileged communications, shall not be subject to
119 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
120 the purpose of this paragraph, records of investigation and reports of examinations shall include
121 records of investigation and reports of examinations conducted by a financial regulatory agency
122 of the federal government and any other state, and of any foreign government which are
123 considered confidential by such agency or foreign government and which are in possession of the
124 commissioner. In any proceeding before a court, the court may issue a protective order to seal
125 the record protecting the confidentiality of any such record, other than any such record on file
126 with the court or filed in connection with the court proceeding, and the court may exclude the
127 public from any portion of the proceeding at which any such record may be disclosed. Copies of
128 such reports of examination shall be furnished to a licensee for its use only and shall not be
129 exhibited to any other person, organization or agency without prior written approval by the
130 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
131 federal government, of other states, or of foreign countries, and any law enforcement agency,
132 such information, reports, inspections and statements relating to the licensees under his
133 supervision.

134 The commissioner, or his examiners or such others of his assistants as he may designate,
135 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
136 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
137 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
138 required or obstructs the person making such examination in the performance of his duty, shall
139 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
140 than one year.

141 SECTION 6. Section 3 of Chapter 255B, as so appearing, is hereby amended by inserting
142 after the first paragraph the following two paragraphs:—

143 The commissioner shall preserve a full record of each such examination of a licensee
144 including a statement of its condition. All records of investigations and reports of examinations
145 by the commissioner, including workpapers, information derived from such reports or responses
146 to such reports, and any copies thereof in the possession of any licensee under the supervision of
147 the commissioner, shall be confidential and privileged communications, shall not be subject to
148 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
149 the purpose of this paragraph, records of investigation and reports of examinations shall include
150 records of investigation and reports of examinations conducted by a financial regulatory agency
151 of the federal government and any other state, and of any foreign government which are
152 considered confidential by such agency or foreign government and which are in possession of the
153 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
154 record protecting the confidentiality of any such record, other than any such record on file with
155 the court or filed in connection with the court proceeding, and the court may exclude the public
156 from any portion of the proceeding at which any such record may be disclosed. Copies of such
157 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
158 to any other person, organization or agency without prior written approval by the commissioner.
159 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
160 government, of other states, or of foreign countries, and any law enforcement agency, such
161 information, reports, inspections and statements relating to the licensees under his supervision.

162 The commissioner, or his examiners or such others of his assistants as he may designate,
163 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
164 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
165 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
166 required or obstructs the person making such examination in the performance of his duty, shall
167 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
168 than one year.

169 SECTION 7. Section 6 of chapter 255C, as so appearing, is hereby amended by striking
170 out the second paragraph and inserting in place thereof the following two paragraphs:—

171 The commissioner shall preserve a full record of each such examination of a licensee
172 including a statement of its condition. All records of investigations and reports of examinations
173 by the commissioner, including workpapers, information derived from such reports or responses

174 to such reports, and any copies thereof in the possession of any licensee under the supervision of
175 the commissioner, shall be confidential and privileged communications, shall not be subject to
176 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
177 For the purpose of this paragraph, records of investigation and reports of examinations shall
178 include records of investigation and reports of examinations conducted by a financial regulatory
179 agency of the federal government and any other state, and of any foreign government which are
180 considered confidential by such agency or foreign government and which are in possession of the
181 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
182 record protecting the confidentiality of any such record, other than any such record on file with
183 the court or filed in connection with the court proceeding, and the court may exclude the public
184 from any portion of the proceeding at which any such record may be disclosed. Copies of such
185 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
186 to any other person, organization or agency without prior written approval by the commissioner.
187 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
188 government, of other states, or of foreign countries, and any law enforcement agency, such
189 information, reports, inspections and statements relating to the licensees under his supervision.

190 The commissioner, or his examiners or such others of his assistants as he may designate,
191 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
192 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
193 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
194 required or obstructs the person making such examination in the performance of his duty, shall
195 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
196 than one year.

197 SECTION 8. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby
198 amended by inserting after the first paragraph the following two paragraphs:—

199 The commissioner shall preserve a full record of each such examination of a licensee
200 including a statement of its condition. All records of investigations and reports of examinations
201 by the commissioner, including workpapers, information derived from such reports or responses
202 to such reports, and any copies thereof in the possession of any licensee under the supervision of
203 the commissioner, shall be confidential and privileged communications, shall not be subject to
204 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For

the purpose of this paragraph, records of investigation and reports of examinations shall include records of investigation and reports of examinations conducted by a financial regulatory agency of the federal government and any other state, and of any foreign government which are considered confidential by such agency or foreign government and which are in possession of the commissioner. In any proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of any such record, other than any such record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of the proceeding at which any such record may be disclosed. Copies of such reports of examination shall be furnished to a licensee for its use only and shall not be exhibited to any other person, organization or agency without prior written approval by the commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the federal government, of other states, or of foreign countries, and any law enforcement agency, such information, reports, inspections and statements relating to the licensees under his supervision.

The commissioner, or his examiners or such others of his assistants as he may designate, may summon the directors, officers or agents of a licensee, or any other witnesses, and examine them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so required or obstructs the person making such examination in the performance of his duty, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

SECTION 9. Section 8 of chapter 255E, as most recently amended by Chapter 223 of the Acts of 2007, is hereby amended by adding the following paragraph:--

The commissioner, or his examiners or such others of his assistants as he may designate, may summon the directors, officers or agents of a licensee, or any other witnesses, and examine them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so required or obstructs the person making such examination in the performance of his duty, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.